

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MIGUEL DELGADO,

Plaintiff,

v.

CIVIL ACTION NO. 3:04CV29

EDWARD RUDLOFF, ET AL.,

Defendants.

ORDER RE: DEFENDANTS' MOTIONS IN LIMINE

Motion in Limine No. 1 is **GRANTED** as to the existence or applicability of insurance and **DENIED AS MOOT** to golden rule arguments to the jury because it is a bench trial.

Motion in Limine No. 2 is **GRANTED** as to the scope of argument in rebuttal and **DENIED AS MOOT** as to suggestions to the jury as to verdict amount or range because it is a bench trial.

Motion in Limine No. 3 is **DENIED AS MOOT** because it is a bench trial.

Motion in Limine No. 4 is **DENIED AS MOOT** because it is a bench trial.

Motion in Limine No. 5 is **GRANTED** except **DENIED AS MOOT** as to voir dire because it is a bench trial.

Motion in Limine No. 6 is **GRANTED** except **DENIED AS MOOT** as to voir dire because it is a bench trial.

Motion in Limine No. 7 is **DENIED** because while the policies at other penal institutions are not determinative of the outcome of this action, such policies are evidence that expressly bear on whether the policies at issue are reasonably related to legitimate penological interests. Further, policies at other institutions introduced into evidence must be considered by the requirements of Thornburgh v. Abbot, 490 U.S. 401 (1989) and Turner v. Safley, 482 U.S. 78 (1987). More specifically, the policies at other institutions must be considered under Thornburgh and Turner

factors one, three and four. Most importantly, Thornburgh and Turner factor four speaks in terms of the existence of obvious, easy alternatives that may be evidence that a regulation is not reasonable.

IT IS SO ORDERED.

The Clerk of the Court is directed to provide a copy of this Order to parties who appear pro se and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: November 28, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE